

Fifty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

Senator Holmberg

1 A BILL for an Act to create and enact a new section to chapter 15-39.1 of the North Dakota
2 Century Code, relating to retired teachers returning to teaching under the teachers' fund for
3 retirement; to amend and reenact subsection 1 of section 15-39.1-09 and section 15-39.1-19.1
4 of the North Dakota Century Code, relating to assessments and resumption of teaching under
5 the teachers' fund for retirement; and to provide an effective date.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 1 of section 15-39.1-09 of the 1999
8 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9 1. Except as provided in subsection 2 of section 15-39.1-10.3, section 3 of this Act,
10 and subsection 3, every teacher is a member of the fund and must be assessed
11 upon the teacher's salary seven and seventy-five hundredths percent per annum,
12 which must be deducted, certified, and paid monthly to the fund by the disbursing
13 official of the governmental body by which the teacher is employed. Every
14 governmental body employing a teacher shall pay to the fund seven and
15 seventy-five hundredths percent per annum of the salary of each teacher employed
16 by it. The disbursing official of the governmental body shall certify the
17 governmental body payments and remit the payments monthly to the fund.

18 **SECTION 2. AMENDMENT.** Section 15-39.1-19.1 of the 1999 Supplement to the
19 North Dakota Century Code is amended and reenacted as follows:

20 **15-39.1-19.1. (Contingent effective date and expiration date - See note) Annuities**
21 **discontinued on resumption of teaching.** A Except as provided in section 3 of this Act, a
22 retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2
23 may not return to covered employment until sixty calendar days have elapsed from the
24 member's retirement date. A retired member may then return to covered employment for a

1 maximum of ninety working days and continue receiving a monthly retirement benefit. For
2 purposes of this section, a working day is four or more hours of teaching. The board may waive
3 this restriction in emergency situations.

4 Should the retired member's employment exceed the ninety-day maximum limit, the
5 retired member must immediately notify the fund office in writing. Failure to notify the fund
6 office will result in the loss of one month's annuity benefit. The retired member's monthly
7 benefit must be discontinued the first of the month following the date the member reaches the
8 ninety-day maximum.

9 Any retired member who returns to teaching shall pay the required assessments on
10 those earnings received by the retired member after the ninety-day maximum. The employer
11 shall pay the required contributions in a like manner.

12 Upon the teacher's subsequent retirement, the member's benefit must be resumed as
13 follows:

- 14 1. If the teacher subsequently retires with less than two years of additional credited
15 service, the teacher's assessments paid to the fund must be refunded in
16 accordance with section 15-39.1-20 and the teacher is entitled to receive the
17 discontinued annuity the first day of the month following the teacher's
18 re-retirement.
- 19 2. If the teacher subsequently retires with more than two years of additional credited
20 service, the retired person's annuity is the sum of the discontinued annuity, plus an
21 additional annuity computed according to this chapter based upon years of service
22 and average salaries earned during the period of reemployment. The new annuity
23 is payable the first day of the month following the member's re-retirement.

24 **(Contingent effective date and expiration date - See note) Annuities discontinued**
25 **on resumption of teaching.**

- 26 1. A Except as provided in section 3 of this Act, a retired teacher who is receiving a
27 retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to
28 covered employment until sixty calendar days have elapsed from the member's
29 retirement date. Except as otherwise provided in this section, a retired member
30 may then return to covered employment for a maximum of ninety working days and
31 continue receiving a monthly retirement benefit. For purposes of this section, a

working day is four or more hours of teaching. The board may waive this restriction in emergency situations. Should the retired member's employment exceed the ninety-day maximum limit, the retired member must immediately notify the fund office in writing. Failure to notify the fund office will result in the loss of one month's annuity benefit. Except as otherwise provided in this section, the retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the ninety-day maximum. A retired member who returns to teaching shall pay the required assessments on those earnings received by the retired member after the ninety-day maximum. The employer shall pay the required contributions in a like manner.

2. A retired member may return to teaching for up to one year without losing any benefits provided at least fifty percent of the salary earned by that person is placed in a school district's educational foundation or a private educational foundation. Employee and employer assessments under this arrangement must be paid by the person's employer. Assessments must be paid on the total salary earned by the retired member without regard to the amount of money placed in an educational foundation. A retired member reemployed under the provisions of this subsection must be treated as retired for all other purposes under this chapter. Notwithstanding subdivision a of subsection 3, a retired member may not earn any additional service during the period of reemployment. The member's benefits may not be adjusted to reflect changes in the member's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, additional benefits normally available to an active member, such as disability benefits, are not available to a retired member reemployed under this subsection, and refunds may not be made to a retired member at the end of that person's period of reemployment. For purposes of this subsection, a school district's educational foundation must be a nonprofit or charitable organization exempt from federal income taxation under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)].

3. Upon the teacher's subsequent retirement, the member's benefit must be resumed as follows:

- a. If the teacher subsequently retires with less than two years of additional credited service, the teacher's assessments paid to the fund must be refunded in accordance with section 15-39.1-20 and the teacher is entitled to receive the discontinued annuity the first day of the month following the teacher's re-retirement.
- b. If the teacher subsequently retires with more than two years of additional credited service, the retired person's annuity is the sum of the discontinued annuity, plus an additional annuity computed according to this chapter based upon years of service and average salaries earned during the period of reemployment. The new annuity is payable the first day of the month following the member's re-retirement.

SECTION 3. A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

Retired teachers return to active service - Critical shortage areas and disciplines -

Rules. A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may return to teaching without losing any benefits under the provisions of this section. To return to teaching under this section, a teacher must have been receiving a retirement annuity for at least one year and must return to teaching in a critical shortage area or discipline as determined by the board by rule. A retired teacher who returns to teaching and the governmental body employing the retired teacher under this section are not required to pay the employee and employer assessments required by section 15-39.1-09. A retired teacher who returns to teaching under the provisions of this section must be treated as retired for all other purposes under this chapter. A retired teacher may not earn any additional service during the period of reemployment. The retired teacher's benefits may not be adjusted to reflect changes in the retired teacher's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, and additional benefits normally available to an active member, such as disability benefits, are not available to a retired teacher reemployed under this section.

1 **SECTION 4. EFFECTIVE DATE.** This bill is effective August 1, 2001, or on the date
2 the board of trustees of the teachers' fund for retirement receives a letter ruling from the internal
3 revenue service that this Act does not jeopardize the qualified status of the teachers' fund for
4 retirement, whichever date is later. The board shall notify the legislative council of the effective
5 date of this Act.